

### SUPPORT FOR THE AMENDMENT

This Amendment amends the specification and abstract; cancels Claims 1 and 3; and amends Claim 4-6, 8, 10 and 21-22. Support for the amendments is found in the specification and claims as originally filed. In particular, Claim 4 is rewritten in independent form. No new matter would be introduced by entry of these amendments.

Upon entry of these amendments, Claims 4-13 and 21-22 will be pending in this application. Claim 4 is independent.

### REQUEST FOR RECONSIDERATION

Applicants respectfully request entry of the foregoing and reexamination and reconsideration of the application, as amended, in light of the remarks that follow.

Claims 1, 3, 5 and 21-22 are rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,146,465 ("Khan") in view of U.S. Patent No. 6,661,822 ("Kubota"). In addition, Claims 6 and 10 are rejected under 35 U.S.C. § 103(a) over Khan in view of Kubota. Claim 8 is rejected under 35 U.S.C. § 103(a) over Khan and Kubota and further in view of U.S. Patent Application Publication No. US 2001/0038656 A1 ("Takeuchi"). Claim 9 is rejected under 35 U.S.C. § 103(a) over Khan, Kubota and Takeuchi and further in view of U.S. Patent Application Publication No. US 2001/0048114 A1 ("Morita"). Claims 11-12 are rejected under 35 U.S.C. § 103(a) over Khan and Kubota and further in view of U.S. Patent No. 5,915,164 ("Taskar"). Claims 13 is rejected under 35 U.S.C. § 103(a) over Khan, Kubota and Taskar and further in view of U.S. Patent Application Publication No. US 2002/001864 A1 ("Ishikawa").

Applicants thank the Examiner for the indication that Claims 4 and 7 would be allowable if rewritten in independent form. Office Action at page 12, lines 16-19. Claim 4 is

rewritten in independent form, and the other pending claims are amended to depend from independent Claim 4. Thus, all of the pending claims are allowable.

The drawings are objected to "because reference character '2' has been used to designate both nitride compound semiconductor and AlN single crystalline layer on page 6, lines 7-8 and 12". Office Action at page 2, lines 15-17. To obviate the objection, the specification is amended.

The abstract is objected to. To obviate the objection a new abstract is provided in which "comprises" is replaced with --includes--.

The Office Action at page 2 asserts that the Information Disclosure Statement ("IDS") filed February 9, 2004, "fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed". The Office Action indicates that the IDS "has been placed in the application file, but the information referred to therein has not been considered".

The Examiner initialed the Form PTO-1449 associated with the IDS to acknowledge consideration of all of the references except for the AO and AW references. The AO and AW references were considered by the Examiner in parent U.S. Application No. 10/188,744. See attached Form PTO-1449 date-stamped August 22, 2002, from 10/188,744 (downloaded from Public PAIR). As noted in M.P.E.P. § 609:

**The examiner will consider** information which has been considered by the Office in a parent application when examining (A) a continuation application filed Under 37 CFR 1.53(b) .... M.P.E.P. 609.I.A.2, page 600-125, column 2, lines 125-28.

There are exceptions to this requirement that a copy of the information must be provided. First, 37 CFR 1.98(d) states that a copy of any patent, publication, pending U.S. application, or other information listed in an information disclosure statement is not required to be provided if: (1) the information was previously cited by or submitted to, the Office in a prior application, provided that the prior application is properly identified in the IDS and is relied on for an earlier filing date under 35 U.S.C. 120; and (2) the IDS

submitted in the earlier application complies with 37 CFR 1.98(a)-(c). **If both of these conditions are met, the examiner *will* consider the information previously cited or submitted to the Office and considered by the Office in a prior application relied on under 35 U.S.C. 120.** M.P.E.P. 609.III.A.A(2), page 600-128, column 2, lines 15-30.

Because both of these conditions are met, Applicants respectfully request that the Examiner acknowledge consideration of the AO and AW references cited in parent 10/188,744 and cited in the IDS filed February 9, 2004, in the above-identified application. For the Examiner's convenience a copy of the Form PTO-1449 from the IDS filed February 9, 2004, is attached.

In view of the foregoing amendments and remarks, Applicants respectfully submit that the application is in condition for allowance. Applicants respectfully request favorable consideration and prompt allowance of the application.

Should the Examiner believe that anything further is necessary in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
Norman F. Oblon



Corwin P. Umbach, Ph.D.  
Registration No. 40,211

Attached:

Form PTO-1449 date-stamped August 22, 2002, from parent 10/188,744  
Form PTO-1449 from IDS filed February 9, 2004, and date-stamped filing receipt

Customer Number

**22850**

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(OSMMN 08/03)

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AUG 30 2005  
PATENT & TRADEMARK OFFICE

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SHEET 1 OF 1

Form PTO 1449 (Modified)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTY Docketing MARK OFFICE 225255US0RD		SERIAL NO. 10/188,744	
LIST OF REFERENCES CITED BY APPLICANT				APPLICANT Yasuo OHBA			
				FILING DATE July 5, 2002		GROUP 2811	
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
<i>[initials]</i>	AA	6,242,764	06/05/2001	Y. OHBA, et al.			
<i>[initials]</i>	AB	5,990,495	11/23/99	Y. OHBA			
<i>[initials]</i>	AC	5,656,832	08/12/97	Y. OHBA, et al.			
<i>[initials]</i>	AD	5,909,040	06/01/99	Y. OHBA, et al.			
<i>[initials]</i>	AE	5,929,466	07/27/99	Y. OHBA, et al.			
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						
FOREIGN PATENT DOCUMENTS							
		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES NO		
<i>[initials]</i>	AO	2000-31588	01/28/2000	JAPAN (with English Abstract)			X
	AP						
	AQ						
	AR						
	AS						
	AT						
	AU						
	AV						
OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)							
<i>[initials]</i>	AW	Y. OHBA, et al., Japanese Journal of Applied Physics, Vol. 37 Part 2, No. 8A, pps. L 905-L 906, "FABRICATION AND CHARACTERIZATION OF AlGaIn/GaN DOUBLE-HETEROLASER STRUCTURES ON SAPPHIRE SUBSTRATES USING SINGLE CRYSTALLINE AlN BUFFER LAYERS," August 1, 1998					
	AX						
	AY						
	AZ					<input type="checkbox"/> Additional References sheet(s) attached	
Examiner <i>J. MONDT</i>					Date Considered 02/05/03.		
*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.							



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Dept.: CHEMICAL

By: NFO/CPU/wmb

USMM&N File No. 248760US0RD CONT

Serial No. \_\_\_\_\_

In the matter of the Application of: Yasuo OHBA

For: NITRIDE COMPOUND SEMICONDUCTOR ELEMENT

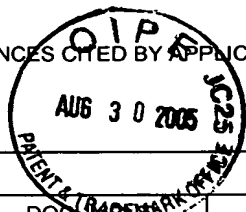
Due Date: **FEBRUARY 8, 2004**

The following has been received in the U.S. Patent Office on the date stamped hereon:

- 30 pp. Specification 20 Claims/Drawings 8 Sheets and  
2 Pages Application Data Sheet
- Combined Declaration, Petition & Power of Attorney 3 Pages
- Utility Patent Application Transmittal
- Request for Priority
- Check for \$770.00
- Fee Transmittal Form
- Information Disclosure Statement
- White Advance Serial Number Card
- Preliminary Amendment (7 pp.)
- Dep. Acct. Order Form
- PTO-1449 (3)



Form PTO 1449 (Modified)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTY DOCKET NO. 248760US0RDCONT		SERIAL NO. New Continuation of 10/188,744	
LIST OF REFERENCES CITED BY APPLICANT				APPLICANT Yasuo OHBA			
FILING DATE Herewith				GROUP			



U.S. PATENT DOCUMENTS							
EXAMINER • INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA	4,792,958	12/20/88	OHBA, et al.			
	AB	4,809,287	02/28/89	OHBA, et al.			
	AC	4,835,117	05/30/89	OHBA, et al.			
	AD	4,949,349	08/14/90	OHBA, et al.			
	AE	4,910,743	03/20/90	OHBA, et al.			
	AF	4,928,285	05/22/90	KUSHIBE, et al.			
	AG	4,893,313	01/09/90	HATAKOSHI, et al.			
	AH	5,076,800	12/31/91	MILNES, et al.			
	AI	5,036,521	07/30/91	HATAKOSHI, et al.			
	AJ	5,168,077	12/01/92	ASHIZAWA, et al.			
	AK	5,042,043	08/20/91	HATANO, et al.			
	AL	5,005,057	04/02/91	IZUMIYA, et al.			
	AM	5,079,184	01/07/92	HATANO, et al.			
	AN	5,103,271	04/07/92	IZUMIYA, et al.			

FOREIGN PATENT DOCUMENTS					
		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES      NO
	AO	2000-31588	01/28/00	JAPAN	
	AP				
	AQ				
	AR				
	AS				
	AT				
	AU				
	AV				

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)	
	AW Y. OHBA, et al., Japanese Journal of Applied Physics, Vol. 37 Part 2, No. 8A, pp. L 905 - L 906, "FABRICATION AND CHARACTERIZATION OF AlGaIn/GaN DOUBLE-HETEROLASER STRUCTURES ON SAPPHIRE SUBSTRATES USING SINGLE CRYSTALLINE AlN BUFFER LAYERS," August 1, 1998.
	AX
	AY
	AZ

☐ Additional References sheet(s) attached

Examiner	Date Considered
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\*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.